IN THE COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE JURISDICTION

COMPANY APPLICATION NO. 1 OF 2007

IN

COMPANY PETITION NO. 506 OF 2006

Naval Kishore Goenka . ...Petitioners

vs.

The Official Liquidator,

High Court, Bombay ...Respondents

M.L.Bansal for the Applicants.

Ms.K.V.Gautam, Deputy Official Liquidator present.

CORAM: S.C. DHARMADHIKARI, J.

18th January, 2007.

P.C :-

1. This Company Petition in which the application is moved by the Original Respondent was admitted

because the BIFR forwarded its opinion recommending winding up of the respondent. In the light of the provisions of law, the opinion itself was treated as a petition for winding up and admitted by this court on 31.3.2006.

2. Mr.Bansal, now appearing for the applicant-original respondent states that against the order passed by the BIFR recommending winding up of the respondent company, an appeal was preferred by the respondent being Appeal No. 11 of 2005 before the AAIFR. He invites my attention to the annexures to the Company Application and submits that this appeal is pending.

3. In the light of the clear statement in paragraph 8 of the Affidavit-in-support and pendency of the appeal, the opinion of the BIFR recommending winding up cannot be taken cognisance of, by this court any further. The bar under Section 22(1) of Sick Industrial Companies (Special Provisions) Act, 1985 would operate. In such circumstances, the order admitting the Company Petition would have to be

recalled. It is accordingly recalled. Company Petition No. 506 of 2006 stands disposed off. However, that would not preclude the court from exercising its power to wind up the company, after disposal of the Appeal preferred by the respondent or upon an application by any creditor in that behalf.

4. The Deputy Official Liquidator present in court states that the Official Liquidator has incurred cost of advertisement and other expenses pursuant to the order passed by this court. Needless to state, that the respondent to pay the cost quantified at Rs.10,000/- within a period of two weeks from today.

. All concerned to act on authenticated copy of this order.

sd/-

(S.C.DHARMADHIKARI, J)